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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,870	02/09/2004	Brant L. Candlore	SNY-T5780.01	8804
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MILLER PATENT SERVICES 2500 DOCKERY LANE RALEIGH, NC 27606			EXAMINER MOORTHY, ARAVIND K	
			ART UNIT 2131	PAPER NUMBER
			MAIL DATE 05/22/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/774,870

**Applicant(s)**

CANDELORE ET AL.

**Examiner**

Aravind K. Moorthy

**Art Unit**

2131

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 February 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-22 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/5508)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This is in response to the amendment filed on 11 February 2008.
2. Claims 1-22 are pending in the application.
3. Claims 1-22 have been rejected.

#### ***Response to Arguments***

4. Applicant's arguments filed 11 February 2008 have been fully considered but they are not persuasive.

On page 7, the applicant argues that the Brooks et al reference does not teach or disclose a method or apparatus for "receiving a stream of video data from a host display device, the stream of video data being received by said host from a multimedia broadcaster and being encoded according to a first coding" or "a transcoder that transcodes the stream of video data associated with said host display device" as recited in independent claims 1, 8, 12 and 19. The applicant argues that the ability for a point of deployment module device integral to a "display device" to receive incoming video data broadcasts and transcode them prior to display on said "display device" is not disclosed or taught by the Brooks et al reference.

The examiner respectfully disagrees. Brooks et al discloses an example of a personal broadcasting server according to the present invention can be provided by any one or a combination of the simplified diagrams of FIGS. 2C to 2D. As shown, the server 250 receives video data from video device 251, which couples to driver device 252. The server 250 also receives audio data from sound device 268, which couples to sound card driver 267. Master control 261 communicates between video interface 253, audio interface 262, and network interface 260, as well as other blocks. Video data enters video input interface, which transfers the

video into a series of blocks 254 including frame buffer 255, video processing 256, video compression 257, stream casting 258, and network interface 259. Additionally, audio transfers through the audio input interface, which transfers the audio through a sequence of blocks 266 including audio compression 263, stream casting 264, and network interface 265. Each of these blocks carry out functionality common known in the art as well as described above and throughout the present specification. The personal broadcasting server generally receives video data in a first format and converts such video data into a second format for transmission over to a client device, which is coupled to the network. Here, the video data in the first format cannot effectively be used by the client device. Brooks et al discloses the network gateway comprising a gateway transcoding device for converting the packetized stream of information from the first format to a second format, the network gateway also comprising a packetizing portion for transferring the packetized stream of information in the second format to the network, and a display device coupled to the network gateway through the world wide network of computers, the display device comprising a display device for converting the packetized stream of information into video information for display, the display device also comprising a display for displaying the video information on the display device. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "display device" to receive incoming video data broadcasts and transcode them prior to display on said "display device") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

On pages 7 and 8, the applicant argues that the Brooks et al reference discloses content preparation for broadcasters across a network, not data manipulation of any kind, or the methods and equipment to perform such manipulations, at the receiving end of the broadcaster content.

The examiner respectfully disagrees. The current application claims transcoding of the stream of video. However, it is not claimed that the transcoding takes place at the receiving end of the broadcaster content. All that is claimed is the stream of video content being transcoded and sending the transcoded stream back to the host.

On page 8, the applicant argues that there is no disclosure or teaching in the Brooks et al reference for a point of deployment device such as a CableCARD of any kind, including a CableCARD or point of deployment device "compliant with an OpenCable standard format". The applicant argues that there is no disclosure or teaching in the Brooks et al reference that discloses that any coding comprises "MPEG 7 compliant coding, Wavelet compression coding, and AVC coding" as recited in claims 7, 11, 18 and 22.

The examiner respectfully disagrees. Brooks et al discloses the personal broadcasting server generally receives video data in a first format and converts such video data into a second format for transmission over to a client device, which is coupled to the network. The examiner asserts that the applicant no longer claims the point of deployment being a CableCARD or a point of deployment device "compliant with an OpenCable standard format". Brooks et al discloses for MPEG-1, MPEG-2, and MPEG-4 encoding, it is contemplated that I-frame data will be compressed. In another embodiment, P-frames, and even B-frames may also be compressed. For MPEG-4 encoding, it is contemplated that both I-frame data and P-frame data be compressed for transmission purposes. Detail description of I, P, and B frames are outside the scope of this

technical disclosure. In other embodiments of the present invention, alternative formats may be specified, for example \*.avi format video, \*.mov format video, streaming video such as in the \*.rm format from REAL NETWORKS, or \*.asf format from MICROSOFT, or the like. Such formats may be in the public domain, or proprietary. Further, encoding block 560 may be embodied as specialized dedicated hardware, or as software routines on a digital signal processor (DSP), a microprocessor (ATHLON, PENTIUMIII), or the like. After encoding, the video data may be encrypted by encryptor block 237.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Independent claims 1, 8, 12 and 19 have been amended to include the limitation "host display device". After a careful review of the specification, the examiner has not found any support in the specification for the host having a display device.

Any claims not directly addressed are rejected on their virtue of dependency.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 6, 10, 17 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6, 10, 17 and 21 contain the trademark/trade name OpenCable<sup>TM</sup>. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe compliant point of deployment module and, accordingly, the identification/description is indefinite.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**7. Claims 1-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Brooks et al  
U.S. Patent No. 7,047,305 B1.**

As to independent claim 1, Brooks et al discloses a method of manipulating a stream of video data in a point of deployment module device, comprising:

receiving a stream of video data from a host display device, the stream of video data being received by the host from a multimedia broadcaster and being encoded according to a first coding [column 6, lines 37-47];

transcoding the stream of video data associated with the host display device to convert the stream of video data to a second coding, producing a transcoded data stream [column 9, lines 23-39]; and

sending the transcoded data stream back to the host [column 10, lines 4-27].

As to claims 2 and 13, Brooks et al discloses that the stream of video data includes encrypted data [column 9, lines 40-56].

As to claims 3 and 14, Brooks et al discloses decrypting the encrypted data [column 23, lines 11-21].



As to claims 4 and 15, Brooks et al discloses encrypting the transcoded data stream [column 9, lines 40-56].

As to claims 5, 9, 16 and 20, Brooks et al discloses that the second coding comprises MPEG compliant coding [column 9, lines 40-56].

As to claims 6, 10, 17 and 21, Brooks et al discloses that the point of deployment module comprises a point of deployment module compliant with an OpenCable™ standard format [column 11, lines 9-12].

As to claims 7, 11, 18 and 22, Brooks et al discloses that the second coding comprises MPEG 2 compliant coding. Brooks et al discloses that the first coding comprises one of MPEG 4 compliant coding, MPEG 7 compliant coding, Wavelet compression coding, and AVC coding [column 9, lines 40-56].

As to independent claim 8, Brooks et al discloses a method of manipulating a stream of video data in a point of deployment module device, comprising:

receiving a stream of video data from a host display device, the stream of video data being received by the host from a multimedia broadcaster and being encrypted and encoded according to a first coding [column 6 line 63 to column 7 line 5];

decrypting the encrypted data [column 23, lines 11-21];

transcoding the stream of video data associated with the host display device to convert the stream of video data to a second coding, producing a transcoded data stream [column 9, lines 23-39];

encrypting the transcoded data stream [column 9, lines 40-56]; and

sending the encrypted transcoded data stream back to the host [column 10, lines 4-27].

As to independent claim 12, Brooks et al discloses a point of deployment module device for manipulation of a stream of data, comprising:

means for receiving a stream of video data from a host display device, the stream of video data being received by the host from a multimedia broadcaster and being encoded according to a first coding [column 6, lines 37-47];

a transcoder that transcodes the stream of video data to convert the stream of video data to a second coding, producing a transcoded data stream [column 9, lines 23-39]; and

means for sending the transcoded data stream back to the host [column 10, lines 4-27].

As to independent claim 19, Brooks et al discloses a point of deployment module device for manipulation of a stream of data, comprising:

means for receiving a stream of video data from a host display device, the stream of video data being received by the host from a multimedia broadcaster and being encrypted and encoded according to a first coding [column 6 line 63 to column 7 line 5];

a decrypter that decrypts the encrypted data [column 23, lines 11-21];

a transcoder that transcodes the stream of video data associated with the host display device to convert the stream of video data to a second coding, producing a transcoded data stream [column 9, lines 23-39];

an encrypter that encrypts the transcoded data stream [column 9, lines 40-56]; and

means for sending the encrypted transcoded data stream back to the host [column 10, lines 4-27].

### ***Conclusion***

**8. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aravind K. Moorthy whose telephone number is 571-272-3793. The examiner can normally be reached on Monday-Friday, 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R. Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aravind K Moorthy/  
Examiner, Art Unit 2131

/Christopher A. Revak/  
Primary Examiner, Art Unit 2131